

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN JUSTIN BROWNLEE,  
Plaintiff,  
v.  
J. BURNES, ET AL.,  
Defendants.

Case No. 1:23-cv-00376-JLT-HBK (PC)  
ORDER NOTING CLERK PROPERLY  
REJECTED PLAINTIFF'S CONSTRUED  
REQUEST FOR CLERK'S DEFAULT  
(Doc. No. 73)

On September 22, 2025, Plaintiff filed a "Declaration for Entry of Default." (Doc. No. 73, "Declaration"). Plaintiff complains that counsel for Defendants did not provide him with a copy of his deposition and requests "entry of default against Defendants." (*Id.*). Liberally construed Plaintiff requests that the Clerk enter a clerk's default against Defendants pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

By way of background, Plaintiff is a state prisoner proceeding pro se and *in forma pauperis* on his First Amended Complaint brought under 42 U.S.C. § 1983 as screened. (Doc. No. 24). On July 12, 2024, Defendants timely filed an Answer to Plaintiff's First Amended Complaint. (Doc. No. 39). If a defendant fails to plead or otherwise defend an action after being properly served with a summons and complaint, a default judgment may be entered pursuant to Federal Rule of Civil Procedure 55(a). Rule 55 requires a "two-step process" that consists of (1) seeking the clerk's entry of default and (2) filing a motion for entry of default judgment. *Eitel v.*

1 *McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986); *see Symantec Corp. v. Global Impact, Inc.*, 559  
2 F.3d 922, 923 (9th Cir. 2009) (noting “the two-step process of ‘Entering a Default’ and ‘Entering  
3 a Default Judgment’). Here, Defendants timely responded to Plaintiff’s First Amended  
4 Complaint. Thus, he is not entitled to a clerk’s entry of default under Rule 55(a).

5 To the extent that Plaintiff contends he was entitled to a copy of his deposition transcript,  
6 he is incorrect. *In forma pauperis* status does not authorize the courts to expend funds on copies,  
7 even for an indigent litigant. *See Tedder v. Odel*, 890 F.2d 210, 212 (9th Cir. 1989)(finding plain  
8 language of § 1915 did not waive payment of fees or expenses for witnesses); *see also Boston v.*  
9 *Garcia*, Case No. 2:10-cv-1782-KJM-DAD PC, 2013 WL 1165062 \*2 (March 20, 2013)(denying  
10 inmate plaintiff’s motion for free copy of deposition transcript at the discovery stage of the  
11 proceedings); *Joseph v. Parciasepe*, Case No. 2:14-cv-414 GEB AC P, 2016 WL 2743448 \*4  
12 (E.D. Ca. May 11, 2016)(denying motion to compel production of deposition transcript for free at  
13 the discovery stage of the proceedings). Further, Defendants did not file a motion for summary  
14 judgment. Consequently, Plaintiff’s deposition is not at issue at this stage of the proceedings.

15 Accordingly, it is **ORDERED**:

- 16 1. The Clerk properly rejected Plaintiff’s construed request for a Clerk’s default (Doc.  
17 No. 73).  
18 2. The Court will issue a second scheduling order setting this case for a pretrial  
19 conference and trial before the district court.

20  
21 Dated: September 23, 2025

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE